

VIA ECF

December 5, 2022

The Honorable Sarah Netburn
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Set Capital LLC, et al., v. Credit Suisse Group AG, et al.,*
No. 18-CV-02268 (AT) (SN)

Dear Magistrate Judge Netburn:

We represent Defendants and Lead Plaintiffs, respectively, in the above-captioned litigation and write in response to Your Honor's Order dated November 27, 2022.

First, class certification is proceeding on track. After Lead Plaintiffs filed their opening brief and expert report on July 1, 2022 (ECF Nos. 178-82), Defendants filed their opposition brief, expert report, and a *Daubert* motion on October 14, 2022 (ECF Nos. 198-208). Depositions of both Lead Plaintiffs' expert and Defendants' expert have taken place. Lead Plaintiffs will file their reply to Defendants' opposition to class certification and expert rebuttal report, as well as their opposition to Defendants' *Daubert* motion, by the deadline of December 16, 2022. Defendants intend to file their Reply in further support of their *Daubert* Motion by the deadline of January 31, 2023.

Second, while the parties are working diligently to meet the January 31, 2023 fact discovery deadline, the parties write to make the Court aware of several developments that may require a request for an extension of that deadline. First, Lead Plaintiffs requested, and Defendants agreed to provide, a document-by-document privilege log for all documents relevant to the noticed deponents. Defendants previously provided a categorical privilege log for all privileged documents. During a meet and confer to discuss this issue on December 2, 2022, Defendants stated that the document-by-document log will include approximately 2,000 documents, and will, therefore, take at least several weeks to complete. In order to avoid witnesses' being deposed twice, Lead Plaintiffs will need to review, and potentially challenge, certain of the entries on the log prior to moving forward with depositions. Second, the parties are still negotiating the scope of Defendants' redactions on certain documents. While the December 2 meet and confer resolved many of the outstanding issues, redactions will not be finalized until later this week, at the earliest. Third, the parties have been unable to schedule all of the noticed depositions given that there are ongoing discussions regarding documents, the upcoming holiday season, that certain of the noticed deponents are not current employees of Credit Suisse, and that certain of the noticed deponents reside overseas. With all of this in mind, the parties found it prudent to notify the Court that the parties may need to request a modest extension on the current fact discovery deadline of January 31, 2023. We expect to be able to provide an update to the Court by December 12, 2022 regarding scheduling.

We appreciate the Court's attention to this matter and are available to answer any further questions the Court may have.

Respectfully submitted,

/s/ Sheila C. Ramesh
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